



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: September 28, 2010

Department: Zoning, Building, Planning **Staff Contact:** Brennon Williams, Zoning Admin.

TITLE: APPEAL: Denial of the Board of Adjustment's decision regarding a variance of 10 feet to the required front yard setback distance (CO-20100011/BA-20100011/ZA-20100031).

BOARD OF ADJUSTMENT RECOMMENDATION:

Denial of the appeal

SUMMARY:

This matter was deferred by the Board of County Commissioners from the August 24, 2010, meeting to allow the appellant an additional opportunity to attend the public hearing and present the request.

On July 7, 2010, the Board of Adjustment (BA) voted 3 – 2 (Commissioners Atencio and Melendrez in opposition; Commissioners Castillo and Sanchez excused) to deny an appeal of a variance to the front yard setback distance in order to allow the continued placement of an unpermitted carport at just 10 feet from the front property line. The BA determined that the justification presented for the appeal – that the reported sloping driveway and a desire to provide a snow-free area to allow the owner's children to play – was inconsistent with the applicable criteria, unrelated to a specific need to vary the county's setback standard, and was based solely on the appellant's attempts to correct a self-created hardship.

Section 24.A.2.h.(1) of the Comprehensive Zoning Ordinance of Bernalillo County permits the granting of a variance from the height, area, parking or density regulations of the ordinance in the event that the request is limited to the extent necessary to allow the owner reasonable use of the land in those specified instances where there are "peculiar, exceptional, and unusual circumstances" in connection with the land which are not generally found within the area or neighborhood concerned.

ATTACHMENTS:

1. BCC's Notice of Deferral (August 26, 2010)
2. Appeal application and submitted materials
3. BA's Notice of Decision (October 23, 2010)
4. BA packet (October 1, 2010)
5. Minutes from October 1, 2010, BA hearing

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING:

Staff recommends denial of the appeal.